

REMARKS

In the Office Action, the Examiner rejected claims 1-28. In view of the following remarks, the Applicants respectfully request reconsideration and allowance of all pending claims.

Rejections Under 35 U.S.C. § 102(e)

In the Office Action, the Examiner finally rejected independent claims 1-28 under 35 U.S.C. 102(e) as anticipated by Babula et al. (U.S. Pat. No. 6,381,557). Applicants respectfully traverse this rejection in view of the following legal precedent and remarks.

Legal Precedent

Anticipation under section 102 can be found only if a single reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 U.S.P.Q. 773 (Fed. Cir. 1985). The prior art reference also must show the *identical* invention "in as complete detail as contained in the ... claim" to support a *prima facie* case of anticipation. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q. 2d 1913, 1920 (Fed. Cir. 1989). Accordingly, the Applicants need only point to a single element not found in the cited reference to demonstrate that the cited reference fails to anticipate the claimed subject matter.

If the Examiner relies on a theory of inherency, the extrinsic evidence must make clear that the missing descriptive matter is *necessarily* present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. *In re Robertson*, 169 F.3d 743, 49 U.S.P.Q.2d 1949 (Fed. Cir. 1999) (Emphasis Added). The mere fact that a certain thing *may* result from a given set of circumstances is not sufficient. *Id.* In relying upon the theory of inherency, the Examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic *necessarily* flows from the teachings of the applied prior

art. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original). The Examiner, in presenting the inherency argument, bears the evidentiary burden and must adequately satisfy this burden. *See id.*

Regarding functional limitations, the Examiner must evaluate and consider the functional limitation, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used. *See* M.P.E.P. § 2173.05(g); *In re Swinehart*, 169 U.S.P.Q. 226, 229 (C.C.P.A. 1971); *In re Schreiber*, 44 U.S.P.Q.2d 1429, 1432 (Fed. Cir. 1997). If the Examiner believes the functional limitation to be inherent in the cited reference, then the Examiner "must provide some evidence or scientific reasoning to establish the reasonableness of the examiner's belief that the functional limitation is an inherent characteristic of the prior art." *Ex parte Skinner*, 2 U.S.P.Q.2d 1788, 1789 (Bd. Pat. App. & Inter. 1986).

Features of Independent Claim 1 Omitted from Babula et al.

The Examiner rejected independent claim 1 and dependent claims 2-13 under 35 U.S.C. 102(e) as anticipated by Babula et al. Claim 1 recites:

A method of identifying training needs for biomedical equipment in a medical facility, the method comprising:
collecting identification and operation data associated with a plurality of biomedical equipment components;
storing the collected data in a central database;
analyzing the operation data to identify at least one operational parameter affected by operator activities with the equipment components; and
identifying a training need based on the analyzed operational parameter.

In contrast to claim 1, the Babula reference is missing a number of features, such as “analyzing the operation data to identify at least one operational parameter *affected by operator activities*.” In the Final Office Action, the Examiner relied on column 18, lines 30-35 for allegedly teaching this claim feature. *See* Final Office Action mailed November 9, 2004, Page 2. However, this passage of Babula et al. is devoid of any teaching or suggestion of identifying at least one operational parameter affected by operator activities. Instead, the passage simply states: “the service facility engineer will perform analysis of the service issues and recontact the diagnostic system.” Babula et al., Col. 18, lines 30-32. Although Babula et al. disclose analysis, they do not mention any subsequent or associated acts other than recontacting the diagnostic system and/or utilizing the facility database. However, one of ordinary skill in the art would not interpret this teaching to include analyzing the operation data to identify at least one operational parameter affected by operator activities, as recited by claim 1. In view of these omitted features, the Babula reference cannot anticipate independent claim 1 or its dependent claims.

In addition, the Babula reference is missing features relating to a training need. Specifically, Babula et al. do not teach or suggest “identifying a training need based on the analyzed operational parameter,” as recited in claim 1. In the Final Office Action, the Examiner relied on column 18, lines 45-50 for allegedly teaching this claim feature. *See* Final Office Action mailed November 9, 2004, Page 2. However, this passage of Babula et al. is devoid of any teaching or suggestion of identifying a training need based on the analyzed operational parameters. Instead, the passage simply states: “access to the database at step 300 may include access to ... instructional documentation and courses, schedules for training, and so forth.” Babula et al., Col. 18, lines 46-49 (emphasis added). Although Babula et al. disclose instructional materials and training schedules, they do not mention identification of specific materials based on a training need. *See id.* In other words, Babula et al. simply disclose *access* to these materials in a general sense, e.g., a library of available instructional materials. *See id.*

In further contrast, Applicants emphasize that the claimed act of “identifying a training need” is based on a specific analysis, i.e., analyzed operational parameter, which – as discussed above – is affected by operator activities. The general *access* to instructional materials in Babula et al. cannot reasonably be interpreted to equate with identifying a training need based on an operational parameter that has been identified as being affected by operator activities with the equipment components. In addition, the passage cited by the Examiner further states: “Where such information is located for the diagnostic system modality and type, the data may be included in messages formulated by the service facility and retransmitted to the diagnostic system.” *Id.* at Col. 18, lines 49-52 (emphasis added). Again, this passage neither discloses nor suggests identifying a training need based on the analyzed operational parameter. Instead, it simply discloses the inclusion of general information – by modality and type – along with messages. *See id.* However, locating information by *modality and type* is different than identifying a training need based on an operational parameter that has been identified as being *affected by operator activities* with the equipment components, as set forth in claim 1. In view of these omitted features, the Babula reference cannot anticipate independent claim 1 or its dependent claims.

Regarding the dependent claims, a number of additional features are believed to be missing from the Babula reference. For example, dependent claim 5 recites “the *data* includes data representative of *individual operators* utilizing the equipment components.” In the Final Office Action, the Examiner relied on “claim 6, lines 8-51” for allegedly teaching this claim feature. *See* Final Office Action mailed November 9, 2004, Page 3. This citation appears to be erroneous and, thus, the rejection of claim 5 is incomplete. Neither claim 6 nor column 6, lines 8-51 teach or suggest data representative of individual operators. In view of this deficiency, the Babula reference cannot anticipate dependent claim 5. If the Examiner wishes to formulate a new ground of rejection, then the Applicants remind the Examiner that the next Office Action should not be made final.

Dependent claim 8 also recites features missing from the Babula reference. For example, dependent claim 8 recites “generating a report of training need identified.” In the Final Office Action, the Examiner relied on column 19, lines 10-16 for allegedly teaching this claim feature. *See* Final Office Action mailed November 9, 2004, Page 3. However, this passage of Babula et al. is devoid of any teaching or suggestion of a report of *training need*, much less an *identified* training need. Instead, the passage simply states: “the response may further include ... reports of system operation.” Babula et al., Col. 19, lines 14-16 (emphasis added). The disclosed report has nothing to do with an identified training need. In view of this deficiency, the Babula reference cannot anticipate dependent claim 8.

Turning to dependent claims 11 and 12, these claims recite “associating the stored data into *logical groups* by equipment type” and “associating the stored data into logical *groups by equipment location*,” respectively. In addition, these claims 11 and 12 recite “the training need is identified for an equipment type group” and “the training need is identified for an equipment type group and an equipment location group,” respectively. Again, these features are missing from the Babula reference. In the Final Office Action, the Examiner relied on column 18, lines 30-54 for allegedly teaching these claim features. *See* Final Office Action mailed November 9, 2004, Page 4. However, this passage of Babula et al. is devoid of any teaching or suggestion of the act of “associating the stored data into logical groups,” much less groups by equipment type and/or equipment location. Although Babula et al. disclose that “information is *located* for the diagnostic system *modality and type*,” they do not mention any *logical groupings* or *equipment location*. Babula et al., Col. 18, lines 49-50 (emphasis added). In view of these deficiencies, the Babula reference also fails to disclose, for example, that the “the training need is identified for an equipment type group and an *equipment location group*,” as recited in claim 12. Again, as discussed above, the Babula reference only discusses training and instructional materials in a generic or non-specific manner, which has nothing to do with logical groupings such as equipment

location. In view of these omitted features, the Babula reference cannot anticipate dependent claims 11 and 12.

Features of Independent Claim 15 Omitted from Babula et al.

The Examiner rejected claims 15-22 under 35 U.S.C. 102(e) as anticipated by Babula et al. Regarding independent claim 15, this claim recites:

A system for identifying training needs associated with a plurality biomedical equipment components in a medical institution, the system comprising:
a central database configured to store data representative of the equipment components, the stored data including operation data and identification data identifying at least an equipment type;
a data analysis module configured to arrange the operation data into logical groupings and to analyze the operation data based on the logical groupings, the logical groupings including an equipment type grouping; and
a report generator configured to generate a report including an *arrangement of the analyzed operation data based on the logical groupings*, wherein a training need is identifiable based on the arrangement.

In contrast to claim 15, the Babula reference is missing a number of features, such as “a data analysis module configured to arrange the operation data into logical groupings and to analyze the operation data based on the logical groupings.” In the Final Office Action, the Examiner relied on column 11, lines 4-25 for allegedly teaching this claim feature. See Final Office Action mailed November 9, 2004, Page 4. However, this passage of Babula et al. is devoid of any teaching or suggestion of a *data analysis module*, much less analyzing based on *logical groupings*. Instead, this passage describes functionality of the field service unit 24, which includes a device connectivity module 106, a network connectivity module 108, an access module 114A, and adapter modules 116. See Babula et al., Col. 11, lines 25-48. This field service unit 24 clearly lacks a data analysis module, as recited in claim 15. The Babula reference further states: “the service facility engineer will perform analysis of

the *service issues* and recontact the diagnostic system.” Babula et al., Col. 18, lines 30-32 (emphasis added). Although Babula et al. disclose analysis, they only describe manual analysis by an engineer. *See id.* Moreover, Babula et al. do not disclose analysis based on logical groupings, as recited in claim 15. In view of these omitted features, the Babula reference cannot anticipate independent claim 15 or its dependent claims.

Independent claim 15 also recites “a report generator configured to generate a report including an *arrangement* of the analyzed operation data *based on the logical groupings*, wherein a *training need is identifiable based on the arrangement*.” In the Final Office Action, the Examiner relied on column 19, lines 5-45 for allegedly teaching these claim features. *See* Final Office Action mailed November 9, 2004, Page 4. However, these passages of Babula et al. are devoid of any teaching or suggestion of an arrangement of analyzed operation data based on logical groupings, much less an *identified* training need based on the arrangement. Instead, the passage simply states: “Various types of reports may be produced, including reports relating to recent or historical *service activities*, reports of the *state of the diagnostic system*, including numbers and types of examinations performed, errors or problems encountered, anticipated service needs, and so forth.” Babula et al., Col. 19, lines 31-36 (emphasis added). The disclosed report has nothing to do with logical groupings, an arrangement based on the logical groupings, or a training need identified based on the arrangement, as recited in claim 15. In view of these deficiencies, the Babula reference cannot anticipate independent claim 15 or its dependent claims.

Regarding the dependent claims, a number of additional features are believed to be missing from the Babula reference. For example, dependent claim 17 recites that the “operation data includes *operator errors* associated with the equipment components, and wherein the *arrangement* of the analyzed operation data comprises a *presentation of the operator errors* associated with a particular equipment type.” In the Final Office Action, the Examiner relied on column 8, lines 35-55 for allegedly teaching these claim features.

See Final Office Action mailed November 9, 2004, Page 5. However, this passage is silent regarding individual operators, much less errors of those operators. Instead, this passage merely discloses “memory circuitry for storing image data files, log files, *error files*, and so forth.” Babula et al., Col. 8, lines 49-51 (emphasis added). These error files are never disclosed as or suggested to be associated with *operator errors*, as recited in claim 17. In addition, the Babula reference does not describe these error files as associated with equipment components or a particular equipment type. In view of these deficiencies, the Babula reference cannot anticipate dependent claim 17.

Features of Independent Claim 23 Omitted from Babula et al.

The Examiner rejected claims 23-27 under 35 U.S.C. 102(e) as anticipated by Babula et al. Claim 23 recites:

A method for identifying a training need associated with biomedical equipment in a medical institution, the method comprising:
storing data associated with the equipment in a central database, the stored data including equipment operation data and equipment identification data;
logically grouping the stored equipment operation data in accordance with the corresponding equipment identification data;
analyzing the equipment operation data *based on the logical grouping*;
generating a presentation of the analyzed equipment operation data *in accordance with the logical grouping*; and
identifying a training need associated with a particular piece of equipment based on the presentation.

In contrast to claim 23, the Babula reference is missing a number of features, such as “*analyzing* the equipment operation data *based on the logical grouping*.” In the Final Office Action, the Examiner relied on column 18, lines 30-35 for allegedly teaching these claim features. See Final Office Action mailed November 9, 2004, Page 6. However, this

passage of Babula et al. is devoid of any teaching or suggestion of analysis based on *logical groupings*. Instead, the passage simply states: “the service facility engineer will perform analysis of the *service issues* and recontact the diagnostic system.” Babula et al., Col. 18, lines 30-32 (emphasis added). Although Babula et al. disclose analysis, they do not mention any logical groupings associated with the analysis. In view of these omitted features, the Babula reference cannot anticipate independent claim 23 or its dependent claims.

Independent claim 23 also recites “*generating a presentation of the analyzed equipment operation data in accordance with the logical grouping.*” In the Final Office Action, the Examiner relied on column 7, lines 12-35 for allegedly teaching these claim features. See Final Office Action mailed November 9, 2004, Page 6. However, these passages of Babula et al. are devoid of any teaching or suggestion of a presentation in accordance with logical groupings. Instead, these passages generally discuss the field service unit 24 and the uniform service platform 90, which is “adapted for composing service requests, transmitting and receiving service data, establishing network connections and managing financial or subscriber arrangements between diagnostic systems and the service facility.” Babula et al., Col. 7, lines 20-24. The disclosed platform 90 has nothing to do with logical groupings, analysis of data, or a presentation based on the logical groupings, as recited in claim 23. In view of these deficiencies, the Babula reference cannot anticipate independent claim 23 or its dependent claims.

Finally, the Babula reference does not teach or suggest “*identifying a training need associated with a particular piece of equipment based on the presentation,*” as recited by independent claim 23. In the Final Office Action, the Examiner relied on column 18, lines 45-50 for allegedly teaching these claim features. See Final Office Action mailed November 9, 2004, Page 6. However, these passages of Babula et al. do not teach or suggest identifying a training need, much less an identification based on the presentation.

Instead, the passage simply states: “access to the database at step 300 may include access to ... instructional documentation and courses, schedules for training, and so forth.” Babula et al., Col. 18, lines 46-49 (emphasis added). Although Babula et al. disclose instructional materials and training schedules, they only disclose general access to these materials. *See id.* Moreover, the general *access* to instructional materials in Babula et al. cannot reasonably be interpreted to equate with *identifying a training need* based on the presentation (i.e., the presentation being derived from an analysis based on logical groupings). In addition, the passage cited by the Examiner further states: “Where such information is located for the diagnostic system modality and type, the data may be included in messages formulated by the service facility and retransmitted to the diagnostic system.” *Id.* at Col. 18, lines 49-52 (emphasis added). Again, this passage neither discloses nor suggests identifying a training need based on the analyzed operational parameter. Instead, it simply discloses the inclusion of general information – by modality and type – along with messages. *See id.* However, locating information by *modality and type* is different than *identifying a training need* based on a *presentation* derived from an analysis based on *logical groupings*, as set forth in claim 23. In view of these omitted features, the Babula reference cannot anticipate independent claim 23 or its dependent claims.

Features of Independent Claim 28 Omitted from Babula et al.

The Examiner rejected independent claim 28 under 35 U.S.C. 102(e) as anticipated by Babula et al. Again, the Examiner’s rejection is deficient for the reasons discussed above with reference to independent claim 1.

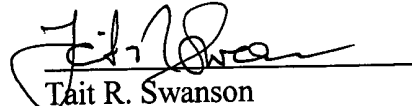
For these reasons, the Applicants respectfully request that the Examiner withdraw all outstanding rejections under 35 U.S.C. § 102.

Conclusion

The Applicants respectfully submit that all pending claims should be in condition for allowance. However, if the Examiner wishes to resolve any issues by way of a telephone conference, the Examiner is kindly invited to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,

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Tait R. Swanson
Registration No. 48,226
FLETCHER YODER
P.O. Box 692289
Houston, TX 77269-2289
(281) 970-4545